

United States v. Green, No. 05-50060

MAR 03 2006

BERZON, Circuit Judge, dissenting:

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

I concur in the disposition except for the refusal to remand under *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc). I would remand to allow the defendant to present his position concerning why his sentence should be reconsidered in light of *United States v. Booker*, 125 S. Ct. 738 (2005). *Ameline* specifically requires that defendants be heard on the question, and Green was not. *See Ameline*, 409 F.3d at 1085 (“[T]he views of counsel, at least in writing, should be obtained.” (internal quotation marks omitted)).